City of Everett NPDES 2 General Permit Comments

Page 1, S1.B(1): To be consistent with the definition of small MS4 in the 12/8/99 Federal Register, "including drainage systems, municipal streets, catch basins, gutters, ditches, man-made channels and or storm drains" should be deleted from the definition of MS4 in this section and from the definition in the glossary.

Page 1, S1.B: regulated MS4s and small MS4s, as defined on pages 1 and 2 are not the same and should not be used interchangeably. Nor should the term regulated small MS4s be sued in the permit.

Page 2, S1.B(2)(b): "surface water of Washington State" should be defined.

Page 2, S1.B(2)(c): To improve the clarity of this provision, "The small MS4" should be deleted.

Page 3, S1.D(2)(b): This section states that phase 2 permitees that submitted an application before the beginning of the formal public comment period do not need to submit a new application to be covered under the general permit. Many phase 2 permitees submitted applications for individual NPDES permits on or before March 10, 2003. This implies that the phase 2 permitees that submitted applications for individual NPDES permits on or before March 10, 2003, do not need to apply for coverage under the general permit. Isn't a notice of intent required to obtain coverage under the general permit, not an application? Shouldn't the first sentence be revised to read " Operators of regulated small MS4s listed in appendix 2 that have submitted an application for an individual permit before the beginning of the formal public comment period do not need to submit a notice of intent to be covered under the general permit."?

Page 4, SD1.D(2)(b)(iv): The last sentence refers to a deadline that has already passed and therefore should be deleted.

Page 5, S2(A) (4): Stormwater discharging to groundwater not in hydraulic continuity with surface water should not covered under this permit. Therefore, S2(A) (4) should be deleted.

Page 5, S2.C: Discharges from firefighting training exercises using stormwater BMPs in the permittee's stormwater manual should be authorized under this permit. Also, it should be clarified who has the authority to determine if fire-fighting discharges are a significant source of pollution. Consequently, this section should be revised to read "…fire fighting activities, including training exercises implementing BMPs in the permittee's stormwater manual, unless the discharges from fire fighting activities are identified by the municipal phase 2 NPDES permittee as significant sources of pollutants…".

Page 6, S4.A: Shouldn't the second sentence refer to a notice of intent rather than an application?

Page 7, S4.C.1: "Monitoring plan" in the first sentence at the top of this page should be changed to "QAPP". Items c through e imply that stormwater sampling is required for all TMDLs. However, not all TMDLs required stormwater sampling. The language in item e is confusing. It appears to be referring to liquid level actuators that are frequently used to trigger automatic water samplers. Item e should be changed to read, "Water levels to be used to trigger automatic water samplers." Item e also implies that automatic water samplers are required for all TMDLs. However, automatic water samplers are not the appropriate method to collect stormwater samples when the parameter of concern is fecal coliforms (which is the case for many TMDLs). To address these concerns, items c through e should be prefaced with "If required by the TMDL".

Page 8, S5.C: The intent of this section appears to be to require that new stormwater discharges and sources comply with volume 1 of DOE's 2005 stormwater manual. However, the section as written would appear to require all new stormwater discharges and sources to comply with "all applicable surface water, ground water and sediment management standards". To ensure that this section is applied in accordance with the apparent intent, the first sentence in this section should be deleted. Otherwise, "and in compliance with the terms of this permit" in S5.C(1) could be interpreted to require compliance with all applicable surface water ground water and sediment standards, even if the new stormwater discharge or source is in compliance with volume 1 of DOE's 2005 stormwater manual.

Page 8, S5.C: It is unclear what "authorized or allowed by the permittee" in the second sentence means. Presumably, authorized means development activity authorize by a building permit issued by the permittee. If so, this should be clarified. "Allowed" is too ambiguous and is probably redundant to "authorized". Delete "or allowed" from the second sentence.

Page 8, SD5.C(2): The implications of site-specific information requiring additional controls to protect beneficial uses could be enormous. Therefore, there must be a process for ensuring the QA/QC of the site-specific information. Therefore, the firsts sentence in this section should be revised to read, "…site specific information collected in accordance with an Ecology-approved QAPP indicates that…"

Page 8, S5.C: The third sentence in this section defines new stormwater discharges as new stormwater sources and new stormwater outfalls. Given that replaced stormwater outfalls are defined as new stormwater outfalls (assuming the replace outfall is large than the existing outfall), this sentence could require retrofitting the entire area tributary to the replaced outfall. The third sentence in the section should also be deleted.

Page 8, S5.C(1)(c): Change the firsts sentence to read, "…must be prepared to demonstrate to Ecology…"

Page 8, S5.C(2): This section needs to clarify who can provide site specific information that would be used to determine if the permit is sufficient to protect beneficial uses of

receiving waters from new stormwater discharges and the procedure that should be used to determine this. This section should be revised to read, "…site specific information collected in accordance with an Ecology-approved QAPP indicates…"

Page 9, SD5.C(2): Change the lasts sentence to read either "… determined necessary by the permittee…" or to "…determined necessary by Ecology in accordance with best available science…"

Page 9, S6 WRIA scale monitoring programs: Ecology has asked for comments regarding integrated, collaborative, WRIA-scale monitoring programs. If receiving water monitoring is required in the final phase 2 permit, collaboration among phase I and phase II permitees on monitoring within the same watershed is a good idea. However, requiring integrated collaborative, WRIA scale monitoring programs is too prescriptive. Such a requirement would be too subjective and difficult to quantify. How will ecology judge when permitees have achieved integrated collaborative, WRIA scale monitoring programs? In some WRIAs, it may simply not be feasible to achieve consensus among all the phase 1 and phase 2 permitees. The WRIA may not be the appropriate scale for collaborative, integrated monitoring programs. In WRIAs 7 and 8, there are numerous small watersheds that discharge directly into Puget Sound rather than into the Snohomish or Cedar Rivers. Integrating the monitoring programs of these independent drainages with the monitoring programs of the Snohomish or Cedar Rivers would not be appropriate. In WRIA 7, there are numerous small watersheds that discharge into the north end of Lake Washington rather than into Cedar River. Integrating the monitoring programs of these independent drainages with the monitoring programs of the Cedar Rivers would not be appropriate, either. Rather than requiring integrated, collaborative, WRIA-scale monitoring programs, Ecology should require permitees within the same receiving water to works towards integrated, collaborative monitoring programs and report to Ecology on areas of agreement and disagreement. Again, this is assuming that receiving water monitoring is required in the final phase 2 permit.

Page 9, S6 monitoring objectives: Ecology has requested comments on the objectives of the proposed monitoring program. However, it is difficult to pinpoint exactly what Ecology's objectives are. Assuming that the two questions in S6.A are Ecology's monitoring objectives, clearly the objectives are inappropriate.

Both of these questions refer to the prevention of adverse impacts to receiving waters. Presumably then, Ecology proposes to require permitees to monitor receiving waters with the objective of determining if our programs have prevented adverse impacts to those receiving waters since we began implementing our stormwater management program. This monitoring objective is not feasible for at least three reasons.

First, the quality of any receiving water will be determined by many factors not addressed in S7 and/or factors that phase 2 permitees cannot control. These include but are not limited to: upstream sources of water pollution, climate change, marine conditions, air pollution and property rights protected by federal and state laws. Phase 2 permitees

should not be held accountable for factors such as these that are out of our control and/or jurisdiction.

Second, water quality, and particularly stormwater quality, is highly variable. The standard deviations for some water quality parameters far exceed their means. With such extreme variability, it is extremely difficult, if not impossible, to determine what causes water quality impacts to receiving waters. Apparently phase 1 permitees were required to monitor over the last ten years with the same objective and concluded that the extreme data variability made it impossible to determine if their programs prevented any impacts to receiving waters. Phase 2 permitees should not be required to implement very expensive receiving water quality monitoring programs when it has already been demonstrated that monitoring cannot dtermine if water quality impacts have been prevented.

Third, determining if water quality impacts have been prevented is essentially a research question. Therefore a scientifically designed experiment is required. Such a scientifically designed experiment would require one or more controls. That is, the control stations would have to be monitored simultaneously with the treated stations (the receiving waters protected by the stormwater management program). The control stations and the treated stations must be identical in every aspect, except that the control stations would not be protected by any phase 2 permittee stormwater management program. Cleary, such a scientifically designed experiment would not be feasible.

Another apparent objective of the monitoring program proposed by Ecology is to determine if the BMPs in Ecology's 2005 stormwater manual are effective at preventing impacts to receiving waters. This monitoring objective is also inappropriate for several reasons including equity and cost effectiveness.

Ecology chose to include those BMPs in their 2005 DOE stormwater manual, not the phase 2 permitees. Therefore, the fact that these BMPs are now relied upon to protect receiving waters is a result of, and the responsibility of, the Departement of Ecology, not phase 2 permitees. It is hardly equitable for Ecology to require phase 2 permitees to be responsible for proving these Ecology-selected BMPs are effective at protecting receiving waters.

Again, since stormwater quality is highly variable, a very large sample size will be required to demonstrate the relative and absolute effectiveness of the many varieties of BMPs in Ecology's 2005 stormwater manual. A scientific study of such a large scope is most cost-effectively undertaken by an independent scientific research "entity", rather than having each of the 100+ permitees duplicate this scientific experiment.

To conclude, neither two questions in S6.A nor the apparent objective of demonstrating BMP effectiveness are appropriate monitoring objectives and should be deleted from the draft permit. Determining if Ecology's permit or stormwater manual are effective should be the responsibility of the Department of Ecology, not the phase 2 permitees.

In lieu of the monitoring objectives currently in S6, the monitoring objective should be to document that the permittee has implemented the program required in the permit.

Page 11, S7: Ecology asked for comments regarding the organization of the phase I and II stormwater management programs. The phase II stormwater management programs should follow the organization of the EPA's six minimum measures, rather than the organization of the phase I stormwater management programs. It is important that the permitees and the public are reminded of EPA's intent regarding phase II permits.

Page 11, SD7.A(1): "…and any additional actions necessary to meet the requirements of applicable TMDLs." in the second sentence of this section appears to violate the industrial permit settlement agreement and is inconsistent with the statement in S4.D that future TMDL requirements would be established through permit modifications. Therefore, "…and any additional actions necessary to meet the requirements of applicable TMDLs." should be deleted from the second sentence.

Page 12, S7. SWMP Approval: Nowhere in S7 does it state that the SWMP will be submitted to Ecology for approval. The phase II permit should include a requirement that each permitee SWMP is subject to review and approval by Ecology.

Page 12, S7.A.4.a: Compliance with the Clean Water Act and the NPDES permit should not be dependent upon the cost of developing and/or implementing the SWMP. Therefore, permitees should not be required to include cost data in their annual reports. If the cost of implementing is included in the annual report, the anti-backsliding provision of the Clean Water Act may imply that permitees can never reduce the cost of implementing their SWMP. This would be counter-productive to the development and implementation of cost-effective SWMPs.

Page 12, S7.C(1): S1.B.2.b states that a regulated MS4 is a system that discharges stormwater to a surface water of Washington State. Therefore, permitees should not be required to implement public education and outreach programs that address stormwater discharges to ground water bodies. Therefore, "and ground" should be deleted from the second sentence of this paragraph.

Page 12, S7.C(1): The first sentence in this section could be interpreted to mean that each permittee must develop public education brochures, videos, etc that are unique to their jurisdiction. However, permitees should be allowed to use public education brochures and videos that have been prepared by state agencies or other permitees, rather than being required to "re-invent the wheel." To clarify this, the second sentence should be revised to read, "The program shall distribute educational materials prepared by their own jurisdiction or by other state or local agencies, which…"

Page 12, S7.C(1)(a)(i): Providing educational opportunities for all audiences is too vague and is not feasible. Replace "all audiences" with "the audiences specified in S7.C(1)(a)(v) through S7.C(1)(a)(viii)."

Page 13, S7.C(1)(a)(iii) through (viii): "Provide information to" suggests that the permitees must ensure that the information is received by the general public and others". Instead permitees should only be required to make the information readily available to the public. "Provide information to" should be replaced by "Provide information for". This would also make these items consistent with S7.C(1)(a)(i).

Page 13, S7.C(1)(a)(v) and S7.C(1)(a)(vi): The information in these two items is contained in DOE's 2005 stormwater manual. S7.C(4) requires permitees to adopt DOE's 2005 stormwater manual. Engineers, contractors and developers will become very knowledgeable about DOE's 2005 stormwater manual or they will not be able to acquire building permits from NPDES II permitees. Therefore, S7.C(1)(a)(v) and S7.C(1)(a)(vi) are redundant and should be deleted.

Page 13, S7.C(1)(b): It is unclear what is intended by reaching 100% of the targeted audiences. If the intention is to require permitees to reach every engineer, contractor, developer, land use planner, citizen and business owner within our jurisdiction, then this requirement is not feasible and should be deleted. If this is not the intent, then "100% of" should be deleted.

Page 13, S7.C(2): In some jurisdictions there may be little or no interest in all of the public involvement opportunities listed in this section. Therefore, "…and similar activities." in the first sentence should be changed to read "…or similar activities."

Page 14, S7.C(2)(a): Most permitees already have a process for consideration of public comments on stormwater issues. Therefore, "create opportunities for " should be replaced with " allow participation by". For the same reason "develop and" should be deleted from the last sentence in this section. It is unclear what the intent is for requiring permitees to create opportunities for the public to participate in the **implementation** of the entire SWMP**.** The public can judge for themselves whether any permittee is implementing its SWMP by reviewing the annual report that will be submitted to Ecology. "Implementation" should be deleted from the this sentence.

Page 14, SD7.C(2)(b): Many permitees do not have the expertise within their organization to develop and maintain a website. Change the language to allow either the permittee to submit a CD of the report for publishing on Ecology's website or allow the permittee to submit a hyperlink to Ecology that links the permitees website to Ecology's website.

Page 14, SD.C(3): While the frequency of spills on roads could be reduced, they certainly cannot be prevented entirely. It is inappropriate for the permit to require or even suggest that permitees should be responsible for preventing all spills of polluting material on roads that discharged into their MS4. Furthermore, neither "prevent" nor "including spills" are included in the phase II rules and regulations published by EPA in the 12/8/99 Federal Register. Therefore, "prevent" and "including spills" should be deleted from the first sentence in this section.

Page 14, SD7.C(3)(b): There are many non-stormwater discharges which permitees will have no authority to control. Two examples are drain line cleaning of state highways and pavement wash water from state highways. EPA recognized these limitations by stating that permitees' effective prohibition of non-stormwater discharges would be to the extent allowable by state, tribe, or **local** law. To be consistent with the phase II rules and regulations published by EPA in the 12/8/99 Federal Register and in recognition of the limits of permitees' authority, the first sentence in this section should be revised to read, "…to the maximum extent allowable under state or local law."

Page 15, S7.C(3)(b)(i): The first sentence in the first paragraph could be interpreted to allow a third party to declare any of the non-stormwater discharges as a significant contributor of pollution based upon the results of a single sample. This is inconsistent with the phase II rules and regulations published by EPA in the 12/8/99 Federal Register. EPA clearly stipulated that it is the permitee's role to identify the non-stormwater discharges that are significant contributors of pollutants. In addition, the first sentence needs to be modified to clarify the intent of the bulleted list of on-stormwater discharges. Accordingly, the first sentence in the second paragraph should be revised to read "The categories of non-stormwater discharges below can be discharged into the MS4 provided the permittee has not identified them as a significant contributor of pollution to the regulated small MS4." Alternatively this sentence could be revised to read, "The categories of non-stormwater discharges below can be discharged into the MS4 provided they have been identified by a monitoring program implemented in accordance with an Ecology-approved QAPP as a significant contributor…".

Page 15, S7.C(3)(b)(i): The second sentence in the second paragraph should be changed to read "The permittee shall conduct the field screening required by SD7.C(3)(c)(ii) to ensure these discharges are not significant sources of pollution to the regulated small MS4." This would make the second sentence compatible with the first sentence in this paragraph, ensure that permitees are not responsible for non-stormwater discharges that never enter their MS4 and clarify what procedure will be used to evaluate the significance of these discharges.

Page 15, S7.C(3)(b)(i): Water that has been de-chlorinated, regardless of whether it was hyper-chlorinated should be allowed to be discharged into MS4s. The last sentence in the sixth and fourteen bullet items should be deleted. The second sentence in the second paragraph should be changed to read, "…to ensure these discharges are not significant sources of pollution to the regulated small MS4." This would make the second sentence compatible with the first sentence in this paragraph and ensure that permitees are not responsible for non-stormwater discharges that never enter their MS4. Reoxygenation of water used for water main flushing is not needed if ascorbic acid is used. Therefore the sixth bullet item should be revised to read, "…deoxygenated, if necessary…".

Page 16, SD7.C(3)(c)(ii): The language "and other illicit discharges" is undefined and can be broadly interpreted. "Other illicit discharges" should be defined.

Page 16, SD7.C(3)(c)(iv): The second sentence conflicts with the first bullet item in SD7.C(3)(c)(iv). Therefore, 7 days in the second sentence should be changed to 21 days. Per comment above, "prevent" and "spill" should be deleted from the first sentence.

Page 17, SD7.C(3)(d)(i): The second sentence in this section requires initial illicit discharge training within one year of the permit's effective date. However, procedures for addressing illicit discharges are not required until 2 years after the permit's effective date. It is inappropriate to require training before the procedures are adopted. Therefore the second sentence should be changed to read "Initial training shall be completed no later than 6 months after adoption of the procedures referenced in SD7.C(3)(c)(iii)."

Page 17, SD7.C(3)(d)(ii): It is not reasonable to require that training will be completed one year before the permittee adopts illicit discharge detection procedures (see SD7.C(3)(c)(iii). Furthermore, annual training after completion of the initial training is too frequent and unnecessary. Certification programs, such as the Departement of Health's water system managers certification program allows certificate holders five years to complete their required number of continuing education units. To address these two concerns, the second sentence should be revised to read "Initial training shall be completed no later than one year after adoption of the procedures referenced in SD7.C(3)(c)(iii)." And the second sentence should be revised to read, "…every three years thereafter."

Page 17, SD7.C(4)(a): To be consistent with the earlier sentences in this section, the last sentence should be revised to read, "Requirements of the ordinance or other enforceable mechanism shall include…"

Page 17, SD7.C(4)(a)(i): The City of Everett has consistently expressed its concerns, in writing, regarding volume 1 of DOE's stormwater manual, most recently in a letter dated December 10, 2004. A copy of this letter is attached. Given these concerns, and the fact that Ecology apparently will not have sufficient staff to review permittee stormwater manuals for equivalency, the requirement to comply with DOE's stormwater manual should be deleted.

Page 18, SD7.C(4)(b): The last sentence in SD7.C(4)(b)(v) should be added to each of SD7.C(4)(b)(ii) through SD7.C(4)(b)(iv).

Page 19, SD7.C(4)(c)(i): It is inappropriate to require permitees to adopt maintenance at least as protective as volume V of Ecology's 2005 stormwater manual. Many of the standards in volume 5 are unrelated to water quality, are specifically called out as applying to privately maintained facilities only, are not feasible to implement (exceed the MEP standard) and are considered technical guidance rather than minimum requirements. Examples of maintenance standards that are unrelated to water quality include trash & debris, poisonous vegetation and noxious weeds and insect removal. Examples of infeasible standards that exceed the MEP standard include trash and debris removal for catch basins and sediment removal criteria for stormwater facilities. Volume 5 calls removal of trash and debris from catch basin inlets if the inlet is blocked by 10% or more

by trash and debris. During the fall this would require every City of Everett Public Works Dept employee to work full time on nothing but clearing debris from catch basin inlets. Volume 5 requires sediment removal when sediment accumulation exceeds 2 inches in 10% of the area of a wet biofiltration swale or 10% of the design depth of detention ponds. Both of these thresholds could be exceeded in a single stormwater runoff event, so they exceed the MEP standard that the permit is supposed to be based upon. Other suggested edits to volume V maintenance standards are:

> Page 4-31, tree growth defect in detention ponds: Change the second sentence in the first paragraph of column 3 to read, "If trees are not interfering with access or maintenance or shading adjacent wetland vegetation, do not remove."
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> Page 4-32, detention pond berm, settlement: Rather than using a uniform 4" settlement criteria, the settlement criteria should be based upon a %loss of freeboard. The first sentence in column 3 should be changed to read, "Any part of a berm that has settled sufficiently to cause a 25% loss of freeboard."
>
> Page 4-39, erosion/scouring for biofiltration swales: Filling bare areas with crushed gravel will not provide good substrate for regrowth of grass. If erosion or scour is due to higher flows, the cross-sectional area of the swale may be needed.
>
> Page 4-40, wetland vegetation in wet biofiltration swales: Dense clumps of cattails are very common and very difficult to control. Furthermore, cattails are desirable in wet biofiltration swales since they are so efficient at metals uptake. The reference to dense clumps of cattails should be deleted.

Ecology should establish a committee of phase II permitees to develop reasonable maintenance standards that are consistent with the MEP standard. Until that is done, the maintenance standards in volume V should only be advisory.

Furthermore, requiring adoption of maintenance standards that are as protective or more protective than Volume V of the Manual is inconsistent with the industrial permit appeal settlement, and effectively makes Volume V a regulatory standard. To comply with Ecology's own policy on how the Stormwater Manual is supposed to be used, the permit should identify an objective criteria which is presumptively met by volume V, but which also can be met by other means - so long as adequacy of those alternative means is demonstrated. This provision improperly sets Volume V of the Stormwater Manual as the regulatory standard for maintenance standards, rather than identifying objective performance criteria. Permitees must be given the opportunity to demonstrate alternative methods also are adequate. No such demonstration is possible if Ecology fails to identify the performance criteria applicable to maintenance standards.

Page 19, SD7.C(4)(c)(ii): To improve the cost-effectiveness of stormwater facility inspections, permitees should be allowed to use a default inspection frequency that is less frequent than annual for small facilities that have less potential to cause water quality impacts to receiving waters. For example, establishing a threshold for annual inspection

of detention facilities at a design volume of 5,00 cubic feet or less could significantly reduce the cost of inspections, without significantly increasing the potential for adverse impacts to receiving waters. Accordingly, the first sentence should be revised to read "Annual inspection of the permitees' largest 80% stormwater control facilities to ensure…". The third sentence in this paragraph does not make sense. If a permittee proposes a change in maintenance frequency, this should be based upon maintenance records equal to the proposed frequency. This will ensure that the potential water quality impact of the proposed action is considered, rather than a hypothetical scenario. Furthermore, the permittee may not have maintenance records equal to double the proposed inspection frequency.

Page 19, SD7.C(4)(c)(iii): Clarify whether new residential developments that are part of a larger common plan of development or sale includes construction of single-family homes in a recorded subdivision.

Page 19, SD7.C(4)(c)(iv): This requirement is unclear. Is it saying that permitees only need to have an inspection program that is designed to meet SD7.C(4)©(ii) and SD7.C(4)(c)(ii) rather than actually meeting SD7.C(4)©(ii) and SD7.C(4)©(ii)? Furthermore, as stated above permitees should not be required to inspect all sites. Change "all sites" to "the largest 80% stormwater facilities."

Page 20, SD7.C(4)(e): Having both Ecology and permitees regulate construction sites and industrial activities seems redundant, too costly and to have too great of a potential for inconsistent regulations and litigation. SD7.C(4)(e) should be deleted in its entirety.

Page 20, SD7.C(5)(a): As discussed above, requiring adoption of maintenance standards that are as protective or more protective than Volume V of the Manual is inconsistent with the industrial permit appeal settlement, and effectively makes Volume V a regulatory standard. To comply with Ecology's own policy on how the Stormwater Manual is supposed to be used, the permit should identify an objective criteria which is presumptively met by volume V, but which also can be met by other means - so long as adequacy of those alternative means is demonstrated. This provision improperly sets Volume V of the Stormwater Manual as the regulatory standard for maintenance standards, rather than identifying objective performance criteria. Permitees must be given the opportunity to demonstrate alternative methods also are adequate. No such demonstration is possible if Ecology fails to identify the performance criteria applicable to maintenance standards.

Page 20, SD7.C(5)(b): As discussed above, if a permittee proposes a change in maintenance frequency, this should be based upon maintenance records equal to the proposed frequency.

Page 21 SD7.C(5)(f): A Regional Road Maintenance Program has been approved by US Fish and Wildlife and NOAA-Fisheries that addresses many of the maintenance practices in this section. Ecology should add a stipulation in the permit that permittee can use the

standards in the Regional Road Maintenance Program in lieu of the standards in SD7.C(5).

Page 22, SD7.C(5)(i): To avoid possible inconsistencies or duplication between NPDES permit for construction activity and phase I/II co-permitees, add, "…or other NPDES permits" at the end of the first sentence. Immediate implementation of non-structural BMPs is not reasonable. Ramp up time should be allowed for implementation of the SWPPP. To be consistent with the ramp time provided for many of the other requirements in the permit, the third sentence should be revised to read, "Implementation of the non-structural BMPs shall begin within 12 months after its development; complete implementation shall occur within 4 years of SWPPP development." The third sentence requires a schedule for structural BMPs, yet nowhere in the permit is it stated that structural BMPs are a required elements of the SWPPP. Therefore, the third sentence should be deleted from the permit.

Page 22, SD7.C(5)(i): Change this to read, "Record keeping of inspections and maintenance or repair activities identified in the SWPPP…"

Page 28, S9.B(3): Compliance with the Clean Water Act and the NPDES permit should not be dependent upon the cost of the SWMP. Therefore, permitees should not be required to include cost data in their annual reports. S9.B(3) should be deleted.

Page 28, S9.B(6): Annual assessments of the effectiveness of all of the BMPs in the permitees' SMWP would not be appropriate. For SD7.C(1) and SD7.C(2), annual assessment would be appropriate. For SD7.C(4) and SD7.C(5), appropriateness of these BMPs will not be known until completion of the independent scientific research recommended in the discussion of S6 above. Therefore, S9.B(6) should be revised to read "…as required in S7.C(1) and S7.C(2) of this permit and;".

Definition Comments

Project and development, are critical words that are used interchangeably/synonymously in a way that could have multiple meanings. Definitions of these words/phrases should be added.

Projects that are part of a larger common plan of the development or sale also need to be defined.

Receiving waters need to be defined. The definition should be clear that receiving waters are not part of the regulated MS4.

Page 37, definition of Municipal Separate Storm Sewer: The 12/8/99 Federal Register does not include a definition of municipal separate storm sewer. Therefore, it is unnecessary to include a definition of Municipal Separate Storm Sewer

Page 38, definition of new stormwater outfall: Replacement of existing stormwater outfalls should not be defined as a new stormwater outfall. The vast majority of culverts installed as replacements for existing stormwater outfalls will increase the flow rate of the discharge, including replacement culverts intended solely to improve fish passage (current WDFW standards for culvert replacements require culvert wider than the natural open channel). Therefore, the definition, as written, will discourage permitees from enhancing fish migration. The last two sentences in this definition should be deleted.

Page 39, definition of runoff: The purpose of this permit is to regulate the discharge of stormwater runoff, not snow melt or runoff from springs or seeps. Therefore, the definition of runoff should be replaced with a definition of stormwater runoff reading, “Water flow resulting from the precipitation that exceeds sum of the soil infiltration capacity and evapotranspiration long enough to fill surface depressions.”

Page 39, definition of stormwater: Delete “snow melt runoff and surface runoff and drainage.”

Page 39, definition of stormwater management manual for Western Washington: Requiring adoption of maintenance standards that are as protective or more protective than Volume V of the Manual is inconsistent with the industrial permit appeal settlement. Change this definition to, “…means volume 1 of the technical manual…”

Appendix 1, page 27, minimum requirement #10: Operation and maintenance manuals should be required only for proprietary BMPs such as compost filters. For other BMPs such as bioswales and wet ponds, maintenance in accordance with volume 5 of DOE’s stormwater manual should be sufficient. Therefore, the first sentence should be changed to read, "…for all proposed proprietary stormwater facilities and BMPs…” Since the permit is a contract between Ecology and the permittee, it is inappropriate to include conditions in the permit that require action on the part of private property owners. Therefore the second sentence should be revised to read “For private facilities, the permittee shall retain a copy of the manual and provide a copy to the property owner.”

Appendix 1, page 28, minimum requirement #10: The last sentence in this minimum requirement also appears to place requirements on private property owners. The sentence should be revised to read, “A log of maintenance activities that indicates what actions were taken shall be kept by the permittee for both public and private facilities.”